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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,111	01/03/2005	Bengt Bern	62642-P10008	9551

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MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON, DC 20036-3307

EXAMINER

WERT, JOSHUA P

ART UNIT	PAPER NUMBER
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3709

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary

Application No.

10/520,111

Applicant(s)

BERN ET AL.

Examiner

Josh Wert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/4/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-24 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/04/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17, 18, 21-24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawano et al., US 2001/0039212 A1.
3. Sawano et al. disclose a handheld game console (12) in an electronic card game system (Figure 1 and 10) comprising a battery power supply (Paragraph 0059, line 5), a display (24), a processor (66), a memory (70, 72), an electronic card reader and writer (68), a receiving opening (38), a wired/wireless communication port (16) and a controller (26).
4. The electronic game card (40), in a system as described above, able to be inserted (Figure 1) comprising a memory comprising changeable data (76) where when the card is inserted it is read (Figure 12B; S51) and where it receives at least one new value (Paragraph 0059, back-up data).
5. The processor being configured for reading (Figure 12B, S51) first data (Figure 12B; Demo screen program in cartridge) from the electronic game card; receiving a second data from a second game console using the communication means (Figure 12; S53, negotiating), the second data comprising at least one game related attribute and at

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least one value (Paragraph 0104; transfer request command); generating a game result (Figure 12A; S56, using the transfer command to determine if the data is transferred and continuing in the flow chart); writing to the memory of the electronic game card (Paragraph 0059; back-up data); transmitting data (Figure 12; Synchronization) and displaying a first data (Figure 13; Demo screen).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawano et al., in view of Itou et al. U.S. Patent 6,354,940.

Sawano et al disclose a game system where individual games are loaded on to electronic game cards. Sawano et al. also disclose that a possible type of game being used by the system is a battle type game (Figure 12B, S55). Itou et al. disclose a battle type game stored on a computer readable medium where the game result is based on a random function (Col. 9, lines 9-13) and where at least one new value is decreased (Col. 5, line 65 – Col 6. line 8). It would have been obvious at the time the invention was made to modify Sawano et al.'s game console to decrease at least one new value as taught by Itou et al. in order to increase the level of interest of a player in a battle type game.

Response to Amendment

Examiner acknowledges the amendments to claims filed on 6/04/07 including the cancellation of claims 25 and 27-32 as well as the amendment to claim 26.

Applicant's arguments with respect to claims 17-24 and 26 have been considered but are not persuasive because they are not in commensurate scope with the claims. While the argument is made that Sawano discloses source code being transferred and applicant's invention relates to source code being executed, the claim language of claims 17-24 and 26 recites merely a game console with "a processor being configured for..." and does not recite the execution of any program, steps or code of any kind. Sawano discloses a game console with a processor that is configured for, and capable of, performing the steps recited in the claims as presented. The examiner has taken in to consideration all of the applicants arguments but maintains claims 17-24 and 26 are rejected as previously cited in Office Action mailed 4/4/07.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Josh Wert whose telephone number is 571-270-1894. The examiner can normally be reached on Monday - Thursday 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

6/13/07

JPW



GARY JACKSON
SUPERVISORY PATENT EXAMINER

